

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VI  
DALLAS, TEXAS

IN THE MATTER OF:

New England Mutual Life Insurance  
Company

A-International Distribution  
Corporation d/b/a International  
Distribution Corporation

Houston Transfer & Storage

RESPONDENTS

REGARDING THE

A-International Distribution (AID)  
Warehouse Site  
Houston, Harris County, Texas

Proceeding under §106(a) of the Com-  
prehensive Environmental Response,  
Compensation and Liability Act of  
1980 (42 U.S.C. §9606(a)), as amended.

ADMINISTRATIVE ORDER

DOCKET NUMBER

CERLCA-VI-05-88

ADMINISTRATIVE ORDER

This Administrative Order (ORDER) is issued to the above-named Respondents pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §9606(a) as amended, by authority delegated by the President of the United States in Executive Order 12580, 51 Fed. Reg. 2923 (January 29, 1987), to the Administrator of the United States Environmental Protection Agency (EPA) and redelegated to the Regional Administrator, Region VI. Notice of the issuance of this ORDER has been given to the State of Texas through the Texas Water Commission (TWC).

LOW PHIPS  
undefined



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The Regional Administrator has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment by releases or threatened releases of hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14), from the facility known as the AID Warehouse Site, which is located in Houston, Harris County, Texas. This ORDER directs you to undertake action to protect the public health and welfare and the environment from this endangerment.

#### FINDINGS OF FACT

1. The site is located on 11.498 acres of land. The legal description of the site is as follows:

BEGINNING at an "X" cut in concrete for the southwest corner of the herein described 11.498 acre tract of land; said point also being the northwest corner of a certain 3.2439 acre tract and being North 0 degrees, 02 minutes East 398.00 feet from the southeast corner of the Chauncey Goodrich Survey, Abstract 306;  
 THENCE, South 89 degrees, 58 minutes East 1244.20 feet to a 1/2 inch iron pipe set at the southeast corner of the herein described 11.498 acre tract, said point also being the northeast corner of a certain 6.334 acre tract, said point also being in the westerly right-of-way line of Mykawa Road;  
 THENCE, North 13 degrees, 27 minutes West along the Westerly right-of-way line of Mykawa Road, 431.97 feet to a 1/2 inch iron rod found for the northeast corner of the herein described 11.498 acre tract;  
 THENCE, South 89 degrees, 58 minutes, 39 seconds West 1143.47 feet to a 1/2 inch iron rod found for the northwest corner of the herein described 11.498 acre tract, said point being in the easterly right-of-way line of a Houston Lighting and Power Company 100-foot right-of-way and in the west line of the Henry B. Prentiss League;  
 THENCE, South 00 degrees, 02 minutes West along the common line of the Houston Lighting and Power Company right-of-way and the herein described 11.498 acre tract, 418.94 feet to the PLACE OF BEGINNING and containing 11.498 acres of land.

2. The site is an active facility that operates as a general warehouse storing all types of materials including hazardous products. The site is located in a predominately residential area.
3. Bills of lading document 91 drums of material at the site (Attachment 1). The condition of the drums is deteriorating.
4. Respondent New England Mutual Life Insurance Company is incorporated in the State of Massachusetts.
5. As evidenced by the document referred to below, Respondent New England Mutual Life Insurance Company is the current owner of the site:

Evidence

State of Texas  
General Warranty Deed 042-70-1226  
Dated March 25, 1986

6. Respondent A-International Distribution Corporation d/b/a International Distribution Corporation and Houston Transfer & Storage Co., a wholly owned subsidiary of A-International Distribution Corporation, are incorporated in the State of Texas.
7. As evidenced by the documents referred to below, Respondents A-International Distribution Corporation and Houston Transfer & Storage Co. are the operators of the site:

Evidence

Lease Agreement  
Dated May 23, 1985

Record of Communication  
Dated June 16, 1988  
Doug Walt, President AID to  
Steve Parker, EPA ORC

CONCLUSIONS OF LAW

8. The Respondents are "person"s as defined in Section 101(21) of CERCLA, 42 U.S.C. §9601(21).
9. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).
10. The substances found at the site are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14), and are subject to the terms and provisions of that act.
11. The spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of hazardous substances constitutes a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22). The threat of any of the above constitutes the threat of a release.
12. As evidenced by the Findings of Fact number three (3) the site poses the threat of a release of hazardous substances.
13. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), imposes liability on:
  - a) the owner and operator of a vessel or a facility;
  - b) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of;

- c) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances; and
  - d) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person;  
from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance.
14. The Respondents are liable, under Section 107(a) of CERCLA, for releases or threatened releases at the site because they own or operate the site.
15. The liability imposed by Section 107(a) of CERCLA, 42 U.S.C. §9607(a) extends to all costs incurred by the United States Government, a State, or Indian Tribe so long as the actions are not inconsistent with the National Contingency Plan (40 CFR Part 300), or any other person if the actions are consistent with the National Contingency Plan, in the taking of actions made necessary by a release, or the threat of a release, of hazardous substances into the environment.

The liability also encompasses damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss. A person liable under Section 107(a) of CERCLA is also responsible for the costs incurred by the Agency for Toxic Substances and Disease Registry in assessing the potential risk to human health posed by exposure to hazardous substances the probable source of which was a release. The costs of actions taken in response to the health assessment are also the responsibility of persons liable under Section 107(a) of CERCLA. A person made liable by Section 107(a) may also be charged interest on the delayed payment of the enumerated costs.

Persons otherwise liable under Section 107(a) can become liable for punitive damages if they fail, without sufficient cause, to provide removal or remedial actions ordered of them, by a person authorized, pursuant to Section 104 or 106 of CERCLA (42 U.S.C. §9604, §9606).

#### DETERMINATIONS

16. The release or threat of release of the hazardous substances described in paragraph 3 of this Order may present an imminent and substantial endangerment to public health or welfare or the environment.
15. In order to protect human health, welfare and/or the environment, it is necessary that the actions described below be taken.

ON-SCENE COORDINATOR

18. The EPA has appointed an On-Scene Coordinator (OSC) who will be the designated representative for the EPA at the Site. The appointed OSC is Pat Hammack, who can be contacted at (214) 655-2270.
19. All decisions of EPA under this ORDER, including approvals, disapprovals, reports, workplans, specifications, schedules, and other work outputs, will be communicated to you by the EPA OSC. No formal or informal advice, guidance, suggestions, or comments by anyone other than the OSC regarding any activities undertaken in satisfaction of this ORDER shall relieve you of, or add to, obligations imposed by this ORDER. No informal guidance provided by the OSC is binding upon you. The OSC will differentiate between formal and informal guidance.

ORDER

20. Based on the foregoing Findings of Facts, Conclusions of Law, and Determinations, it is hereby Ordered and Directed that:
  - a. You shall, no later than three (3) business days after the effective date of this Order, contact Mr. John Meyer, whose address and telephone number are provided in paragraph thirty-three (33) below, and inform him of your intent to act or not to act as ordered. EPA will assume if the Respondents do not respond, that the Respondents refuse to perform the action. If you

elect not to act you may be subject to penalties as explained in paragraph thirty-five (35). If you elect to act as ordered, you will proceed as follows:

- b. You shall appoint no later than three (3) business days after the effective date of this Order, a Facility Coordinator who shall be responsible for this ORDER and the activities required herein. You shall notify EPA of the Facility Coordinator's identity and the address at which he may be contacted. Your Facility Coordinator shall coordinate and work with the EPA OSC.
  - c. You shall develop a Plan to undertake the following:
    - (i.) Sample and overpack the materials described in Attachment 1.
    - (ii.) Remove and properly dispose of the materials at a facility acceptable to the EPA OSC.
  - d. You shall, no later than fourteen (14) calendar days after the effective date of this ORDER, send the Plan with schedules for implementation to the EPA OSC.
  - e. Upon approval by the EPA, you shall implement the Plan in accordance with the schedule therein.
21. All actions taken pursuant to the ORDER shall be done in accordance with all applicable Federal and State laws and/or regulations.
22. You shall not, in any way, interfere with, obstruct, or undo efforts taken by any party to this ORDER.



23. EPA retains its right and power to take appropriate action, including enforcement action, to address any noncompliance by you with the terms of this ORDER, or to address any other event or occurrence not covered by this ORDER upon which EPA is empowered to act under any applicable law.
24. Compliance with this Order will not release any person from responsibilities to pay costs, recompenations, indemnifications or contributions, to undertake, or cause to be undertaken, response actions or other efforts of any nature not herein required but necessary to protect human health or the environment from releases or threats of release of hazardous substances arising from the AID Warehouse site.

#### DETERMINATION OF COMPLETION

25. This ORDER shall terminate when all actions required under paragraph twenty (20) have been successfully completed. You will be notified by the EPA OSC, in writing, when he has made that determination.

#### RECORD PRESERVATION

26. You shall preserve, during the pendency of this ORDER and for a minimum of six (6) years after the termination of this ORDER, all records and documents in your possession or in the possession of your divisions, employees, agents, or contractors, successors or assignees, prepared pursuant to or under the requirements of, or which in any way relate to, this ORDER, regardless of any document retention policy to the contrary.

27. You shall notify EPA thirty (30) calendar days prior to the destruction of any documents required to be kept pursuant to this section. Upon request by EPA, you shall make available, to EPA, the actual records or copies of the actual records required to be maintained pursuant to this paragraph.

#### OTHER CLAIMS

28. Nothing herein is intended to release any claims, causes of action or demands in law or equity against any person, firm, partnership, or corporation for any liability it may have to the United States, the State of Texas or any other person, firm, partnership, corporation or association arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, solid wastes, pollutants, or contaminants found at, taken to, or taken from the Site.
29. This ORDER does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).

#### LIABILITY OF EPA

30. Nothing herein is intended to be an assumption by EPA of liability for any claims or causes of action arising from, or on account of, your acts or omissions or acts or omissions of those under your control arising in connection with the carrying out of activities pursuant to this ORDER.

31. EPA will not be a party to any contract you might make in responding to this Order.

EFFECTIVE DATE - OPPORTUNITY TO CONFER

32. This ORDER is effective upon receipt thereof by you and all times for performance of response shall be calculated from that date.
33. You may make an oral request for a conference, followed by written notice, to the Regional Administrator. Such request must be received by the Regional Administrator within three (3) business days following your receipt of this ORDER.

Address your request for a conference to:

Mr. John C. Meyer  
U.S. Environmental Protection Agency  
Superfund Compliance Section (6H-EC)  
1445 Ross Avenue  
Dallas, Texas 75202-2733  
(214) 655-6730

34. At any conference held pursuant to your request, you may appear in person or by attorney or other representatives. At the conference, you or your representative, may present your analysis of technical feasibility of this ORDER, or you or your representative may offer evidence correcting any factual allegations made in this ORDER.

PENALTIES FOR NONCOMPLIANCE

35. Be advised that willful violations of, failure or refusal to comply with this ORDER, or any portion of it, may subject you, under §106(b) of CERCLA, 42 U.S.C. §9606(b), to a civil

penalty of not more than \$25,000 for each day in which such violation occurs or such failure to comply continues.

Failure to comply with this ORDER, or any portion thereof, without sufficient cause, may subject you, under §107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3), to liability for punitive damages in an amount up to three times the costs incurred by the government as a result of your failure to take proper action.

Dated: June 22, 1988

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY: Robert E. Layton Jr.  
Robert E. Layton Jr., P. E.  
Regional Administrator  
U.S. Environmental Protection Agency, Region VI

ATTACHMENT 1  
DRUM INVENTORY  
AID WAREHOUSE

Material	# Drums
"ALFUL"	1
Amonic Sulfactant	1
Alttox 3404F	1
Benzene	6
Boiler Water	2
Chloral	5
Chlorobenzene	1
Crystal Inhibitor	2
Dichlorobenzene	2
2,4, Dichlorophenoxy Acetic Acid	2
Diethyl Sulfate	13
Dimethyl Sulfate	1
DDT	7
Epichlorohydrin	1
Isobutylnitrile	13
Methanol	7
Methyl Sulfate	1
Methyl Pyrophosphate	1
Naled (organic phosphate mixture)	1
Naptha	1
Tergitol	1
Toxaphene	6
Trimethyl Phosphate	2
1,1,1 Trichloroethane	1
Xylene	8
Unknowns	
Poison "B" UN 2810	1
Poison "B" Liquid	1
Poison	1
Not Legible	1
<hr/> TOTAL	<hr/> 91

## FACT SHEET

### AID Warehouse Houston, Texas Emergency Removal

- AID Warehouse is an operating general merchandise warehouse located in a predominately residential area of Houston.
- The threat at this facility consists of 91 overpacked drums of abandoned pesticide products which originated from a Superfund cleanup in Colorado. The owners of the material are currently serving time for fraud against the United States.
- The overpacked drums are deteriorating rapidly and releasing volatile gases. Workers at the warehouse and the general public are at the greatest risk of exposure due to inhalation and the threat of fire or explosion should these materials mix with incompatible materials.
- The situation qualifies as an imminent and substantial endangerment to the public health or welfare or the environment.
- As these materials were considered pesticide products and not wastes, the Resource Conservation and Recovery Act does not apply.
- The warehouse is owned by the New England Mutual Life Insurance Company and operated by A-International Distribution Corporation and Houston Transfer & Storage Co. Respondents have expressed a willingness to undertake response actions during meetings with EPA staff.